

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1211 OF 2006

Shaikh Hussain Babulal..... Petitioner.

Versus

Yeola Municipal Council & Ors..... Respondents.

Mr. Y. R. Naik for the Petitioner.

Mr. S.S.Kulkarni for Respondent Nos.1 & 3.

Mr. P. P. Kakade, AGP for Respondent No.2.

Mr. S. S. Shah for Respondent Nos.4 to 26.

**CORAM : V.G. PALSHIKAR, and
V.R.KINGAONKAR, JJ.**

DATED : 6TH MARCH, 2006.

P.C.:

By this petition, the Petitioner has questioned the passing of No Confidence Motion by raising hands. The contention is Rule 33 which provides for method of holding person guilty is ultra vires Sections 55 and 321 of the Maharashtra Municipal Councils, Nagar Panchayats & Industrial Townships Act, 1965.

2. Rules are ultra vires Section 55 according to the learned Counsel because the election of the President

is by secret ballot and consequently removal of President by show of hands. Section 55 no where provides any Authority or the State or the Council to frame rules and therefore Rule 33 as framed by the State is ultra vires Section 55. It is not necessary that the power to make rules must be contained in each section for making each rule. General power is contained in Section 321 which in no way prohibits making of rules for conduct of business of the house. Consideration of No Confidence Motion is undoubtedly a business of the house and is being conducted by rules framed in that behalf. Hence, we see no reason to interfere. Petition rejected.
